IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

MONDAY, THE 9TH JULY 2007 / 18TH ASHADHA 1929

Crl.Rev.Pet.No. 37 of 1998()

CRA.157/1995 of I ADDL. SESSIONS COURT, PALAKKAD

ST.1371/1993 of JUDICIAL MAGISTRATE OF THE FIRST CLASS , MANNARKAD

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REVN. PETITIONER:

N.BHOOPATHY, AGED 32 YEARS,
S./O.N.NARAYANAN NAIR,
NECHULLY HOUSE,
FASHION CLUB DRESS MAKERS,
ARADHANA ROAD,
ARAKKRUSSI,
MANNARKAD.

BY ADV. SRI.P.VIJAYA BHANU

RESPONDENTS:

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1. BALACHANDRAN, AGED 46 YEARS,
S/O.PADMANABHA PISHARADY,
'DHANYA', ETHRUPADAM, ARAKRUSSI AMSOM,
MANNARKAD.

2. STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR, SRI C.K.SURESH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 09/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON C.M.P.NO.236/1998 IN CRL.R.P.NO.37/1998

CLOSED

SD/-K.R.UDAYABHANU, JUDGE

09/07/2007

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K.R.UDAYABHANU, J.

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Crl.R.P.No.37 of 1998(A)

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Dated this the 9th day of July, 2007

O R D E R

The revision petitioner stands convicted for the offence under Section 138 of the Negotiable Instruments Act and sentenced to undergo simple imprisonment for a period of six months and to pay a fine of Rs.3,000/- as compensation to the accused and in default to undergo simple imprisonment for two months.

2. The case of the complainant is that the accused borrowed a sum of Rs.14,000/- and issued the impugned cheque which when presented got dishonoured for want of funds in the account of the accused. The lawyer notice sent demanding payment was returned unclaimed. No payment was made. The evidence adduced in the matter consisted testimony of PWs.1 and 2 and Exts.P1 to P5. The evidence of PW.1 stands unimpeached on material particulars. Execution of the cheque stands proved. Evidence of PW.2, the Bank Manager, and Ext.P5 copy of the

ledger extract shows that there were no funds in the account of the accused at the time when the cheque was presented. No evidence was adduced to rebut the statutory presumptions. No contradictions or discrepancies were brought out in the evidence of PWs.1 and 2.

In the circumstances, I find that there is no ground to interfere in the concurrent findings of the court below. The sentence is modified to imprisonment till the rising of the court and to pay a compensation of Rs.25,000/- and in default to undergo simple imprisonment for three months. The revision petitioner is granted two months time to pay the compensation amount. He shall appear before the Judicial Magistrate of the First Class Court, Mannarkkad, on 12/09/2007 to receive the sentence.

The revision petition is disposed of as above.

K.R.UDAYABHANU,
Judge

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K.R.UDAYABHANU, J.

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Crl.R.P.No.37 of 1998(A)

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O R D E R

9th July, 2007